

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12737 OF 2016

Irfan Jalil Patel

.Petitioner

Vs.

Bhiwandi Nizampur City Municipal Corporation
& ors.

.Respondents

Mr.Amit A. Gharte, Advocate, for the Petitioner

Mr.N.R.Bubna, Advocate, for the Respondent No.1

Mr.Shakil Shaikh i/b. S.B.LEGAL, Advocate, for the Respondents No.
2 to 5

CORAM : R.G.KETKAR, J.

DATE : 23.03.2017

P.C.

. Heard Mr. Gharte, learned counsel for the Petitioners,
Mr. Bubna, learned counsel for the Respondent No.1 and Mr. Shaikh,
learned counsel for the Respondents No.2 to 5 at length.

2. By this Petition under Article 227 of the Constitution of India, the Petitioner has challenged the Judgment and Order dated 29.02.2016 passed by the learned 3rd Jt.C.J.J.D., Bhiwandi below Exh.52 in R.C.S.No.803 of 2013. By that Order, the learned trial Judge has allowed the Application filed by Defendants No.2 to 5 under Order

I, Rule 10 of the Code of Civil Procedure, 1908 (For short “CPC”) for their impleadment as Defendants.

3. Mr. Gharate states that Petitioner is present in the Court. He has tendered a photocopy of driving license which is taken on record and marked as “X” for identification. Upon taking instructions from him, he states that within two weeks from today, the Petitioner will withdraw R.C.S.No.803 of 2013 pending before the learned 3rd Jt.C.J.J.D., Bhiwandi. He further states that within four weeks from today, Petitioner will file proposal for regularization of the construction in accordance with law to Respondent No.1 – Corporation.

4. Mr. Bubna states that after receipt of the proposal from the Petitioner, Respondent No.1-Corporation will invite objections/suggestions from Respondents No.2 to 5 and will consider the proposal in accordance with law within four weeks from receipt of the objections/suggestions from Respondents No.2 to 5. If the Respondents No.2 to 5 do not submit objections/suggestions within two weeks from the date of requisition, Respondent No.1-Corporation will consider the proposal in accordance with law.

5. In view thereof, for a period of 16 weeks from today, both the parties shall maintain status-quo in respect of the offending structure and the Petition is disposed of in the following terms.

O R D E R

(i) Petitioner shall withdraw R.C.S.NO.803 of 2013 within two weeks from today by producing authenticated copy of this order before the learned trial Judge. The learned trial Judge will permit the Petitioner to withdraw the suit;

(ii) Within four weeks from today, Petitioner shall submit proposal for regularization of the construction in accordance with law to Respondent No.1 – Corporation;

(iii) Respondent No.1 – Corporation shall invite objections/suggestions from Respondents No.2 to 5 within two weeks from receipt of proposal for regularization of the construction. Respondents No.2 to 5 shall submit objections/suggestions within two weeks from receipt of proposal from Respondent No.1-Corporation;

(iv) If the Respondents No.2 to 5 do not submit objections/suggestions within two weeks thereafter, Respondent No.1-Corporation will be at liberty to consider the proposal in accordance with law;

(v) In the event of Respondents No.2 to 5 submitting objections/suggestions, Respondent No.1 – Corporation will consider those objections/suggestions and will consider the proposal of the Petitioner for regularization of the construction in accordance with law;

(vi) For a period of 16 weeks from today, both the parties shall maintain status-quo as of today. Order accordingly.

(R.G.KETKAR, J.)